

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:3272

ANSWERED ON:04.08.2017

Rights of Minority Shareholders

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Will the Minister of FINANCE be pleased to state:

(a) whether the Government proposes to take/has taken any measures to ensure that minority shareholders do not suffer from irregularities in share transfers and registrations identified as a major problem in Indian corporate governance, in PSUs, MNCs as well as in Indian business groups and if so, the details thereof;

(b) whether the Government has put in place any individual mechanism through which minority shareholders can voice their concerns and complaints and if so, the details thereof and if not, the reasons therefor;

(c) whether the Government has taken steps to make minority shareholders more aware of their rights and if so, the details thereof; and

(d) whether the steps being taken to align SEBI's corporate governance provisions with the Companies Act of 2013 and if so, the details thereof and the action taken thereon?

Answer

The Minister of State for Finance (Shri Arjun Ram Meghwal)

(a): Section 56 of the Companies Act, 2013 lays down the procedure of transfer and transmission of securities of the company, submission of proper instrument of transfer in the prescribed form, stamping, execution and timelines for its delivery to the company etc. These provisions bring transparency in the process followed for registration of transfer/transmission of securities. Section 58(1) of the Companies Act, 2013 permits a private company limited by shares to restrict transfers or transmission of its securities as per its articles of associations. Further, Section 58(2) mandates that securities of a public company are freely transferable, however, the parties to the contract for transfer of securities shall be bound by the terms and conditions of the contract. These provisions further lay down the procedure for filing of appeal and its disposal by the National Company Law Tribunal (NCLT). Non-compliance of Tribunal's order is punishable with imprisonment which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but may extend to five lakh rupees.

Section 88(1) of the Companies Act, 2013 provides that every company shall keep and maintain the following registers in such form and in such manner as may be prescribed, namely:â€

(a) register of members indicating separately for each class of equity and preference shares held by each member residing in or outside India;

(b) register of debenture-holders; and

(c) register of any other security holders.

Further, Ministry of Corporate Affairs (MCA) has notified Companies (Management and Administration) Rules, 2014 prescribing the manner of maintenance of register of members, timelines for making of entries in the register, place of maintenance of the register, rectification of register of members etc.

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR Regulations") have various provisions pertaining to appointment of share transfer agent by listed entities, transfer/ transmission/ transposition of securities, etc. The provisions apply to all listed entities including PSUs, MNCs, etc.

SEBI LODR Regulations also provide various clauses for protection of minority shareholders in listed entities viz[Regulation 4(2) (a)] the rights of shareholders, [Regulation 4 (2) (c)]equitable treatment etc.

(b): Any shareholder having a grievance against the company may file an investor complaint form on-line on www.mca.gov.in which gets assigned to the Registrar of Companies (RoC) in whose jurisdiction the company is registered. The RoC enquires in to the complaint as per standard operating procedure and addresses the grievance. If the errant company neglects to resolve the complaint inspite of RoC's intervention and the subject matter of complaint points to a non-compliance of the provisions of the Companies Act, 2013, the RoC initiates penal proceedings, as the case may be, against the company guilty of such non-compliance.

Section 151 of the Companies Act, 2013, provides that a listed company may have one director elected by such small shareholders in such manner and with such terms and conditions as may be prescribed. Further, Section 241 of the Act empowers a minority shareholders of the company to file a complaint with NCLT on the ground that the affairs of the company are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members of the company. Any shareholder, including a minority shareholder, having a grievance against a listed entity can submit his/her complaint to SEBI on SEBI Complaints Redress System (SCORES) at www.scores.gov.in. These include complaints arising out of issues that are covered under SEBI Act, Securities Contract Regulation Act, Depositories Act and rules and regulation made there under and provisions that are covered under section 55A and Section 24 of Companies Act, 2013.

(c): MCA conducts Investor awareness programmes through Institute of Chartered Accountants of India (ICAI), Institute of Company Secretaries of India (ICSI) and The Institute of Cost Accountants of India (ICoAI) as well as bring out campaigns at periodic intervals to

educate the investors including minority shareholders of their rights under the Companies Act, 2013.

SEBI conducts various investor education and financial education programs such as Regional Seminars, Joint Programs with Trade Bodies and Investor Association, Visits to SEBI, workshops through Resource Persons, etc., to increase awareness among investors and potential investors, which inter alia, includes spreading awareness about Do's, Don'ts, Rights and Responsibilities of investors including minority shareholders.

(d): After the commencement of Companies Act, 2013, SEBI had revised requirements w.r.t. corporate Governance and issued SEBI (Listing Obligation and Discloser Requirements) Regulation, 2015 in September 2015. Many of such corporate governance requirements were aligned as per Companies Act, 2013. The MCA has also revised certain provision of the Companies Act, 2013 [Through Companies (Amendment) Act, 2015] as well as rules made thereunder to harmonize between both sets of Laws/Regulation. The provisions relating to corporate governance are contained in Regulations 16 to 27 of the SEBI LODR Regulations. The similar provisions, which appear in the Companies Act, 2013 are aligned with those of the SEBI LODR Regulations are as follows:

- i. Regulation 16 (1) (b) of the LODR and Section 149 (6) of the Companies Act deal with the definition of independent directors. Both contain broadly similar provisions.
- ii. Regulation 17 (1) of the LODR and the second proviso to Section 149 (1) contain a provision that companies shall have at least one woman director on the Board
- iii. Regulation 17 (5) of the LODR states that the code of conduct for Board of Directors shall suitably incorporate the duties of independent directors as laid down in the Companies Act, 2013.
- iv. Section 173 (1) of the Companies Act states that every company shall hold a minimum number of four meetings of its Board of Directors every year in such a manner that not more than one hundred and twenty days shall intervene between two consecutive meetings of the Board. Similar provisions are contained in regulation 17 (2) of the LODR Regulations.
